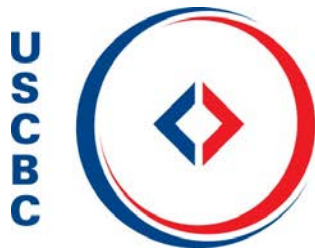




Food Safety in China

**What US Companies
are Bringing to the Table**

By US-China Business Council
November 2016



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"Food is the most important issue under the sky," according to an ancient Chinese proverb.

Introduction

As Chinese consumers gain greater spending power, their preferences and concerns are exerting greater influence on the market. Food safety has become a particular focus for Chinese consumers, and several recent high-profile food safety investigations have heightened public awareness and concerns on this front. In [Pew's most recent survey of public concerns](#) in China, 32 percent of survey respondents indicated that food safety is a "big problem". It also ranked among the top ten concerns of the Chinese public in Pew's [2012](#) and [2013](#) reports. Food safety was a higher ranked public concern than environmental pollution, the legal environment, and general well-being in a [March 2016 report](#) by CCTV, and in the four most recent surveys conducted [by Xiaokang Magazine and Tsinghai University](#), it also topped the list of concerning public issues.

Chinese regulators have responded to these concerns with urgency and conviction, making food safety a [policy priority](#). The most comprehensive and well-known example of recent regulatory action to improve China's food safety environment is the revised [Food Safety Law](#). The law took effect in October 2015 and instituted stricter standards and harsher penalties for noncompliance, making great strides toward creating a food safety system with shared responsibility across the supply chain.

Recent policy developments reflect authorities' concern

- National Health and Family Planning Commission's (NHFP) ["smiley faces" campaign](#) uses emoticons to grade food service providers on their food safety conditions.
- New regulations on auditing overseas manufacturing facilities, and the push for social governance through [whistleblowing](#) have been intended to encourage the production, sale, and consumption of safe food.
- Programs such as [Healthy China 2030 Plan](#) – an outline of national health goals for the next 15 years – and the recently revised nutritional guidelines show that China's leaders consider food safety and the health of their citizens with the utmost seriousness.

Despite the increase in regulatory attention, ensuring food safety remains a continual challenge in China's food industry. From farm to table, from seed to storage, and from the production line to the test lab, companies are now charged with guaranteeing that food is safely produced, processed, and delivered to the public. But vague language in policy directives and a lack of interagency coordination are sources of confusion about what is expected of different stakeholders. The prevalence of small players creates a diverse, disjointed agricultural supply chain that is difficult to oversee – creating compliance concerns for multinational companies in the food and beverage space who deal with these companies in their supply chains. Although regulators have taken concrete steps to promote and enforce shared responsibility across the supply chain to keep food safe, it is not yet a broadly entrenched value in China. Inflated complaints by professional consumers – individuals incentivized by financial gain to report food safety violations – are a step toward a more transparent system, but distract from tackling core food safety reforms.

Robust transparency in policy creation and implementation – paired with even enforcement – is critical for companies to efficiently operate in any market. A transparent, healthy regulatory approach leads to policies that are balanced, implementable, and effectively achieve food safety outcomes that help create a greater supply of safe food.

In 2016, USCBC conducted more than 40 interviews in China and the United States with its member companies, Chinese and US government officials, and other stakeholders in China’s food industry about approaches to mitigating food safety risks, best practices for engaging with the public and private sectors, and the surrounding policy and regulatory environment. The interviews included professionals in farming, processing, packaging, retail, foodservice, and ecommerce industries.

Through this research, USCBC found that US companies are responding to food safety challenges in China in ways that are collaborative and innovative, and help promote food security across the whole supply chain.

Importance of policy clarity and transparency

The challenge of ensuring consistent policy enforcement across different jurisdictions and throughout different levels of government is not unique to China. Many countries struggle to define policy in ways that are broadly inclusive of the issues at play, yet targeted enough to be effective. From the Food Safety Law to [food safety demonstration zones](#) to [measures regulating online food safety](#), Chinese regulators have proven their dedication to positive, productive food safety oversight.

The sheer size and complexity of China’s economy, paired with complexities inherent in Chinese regulatory language, pose challenges for US food companies working in China. US companies are diligent in their efforts to comply with Chinese regulations, describing food safety as their “lifeline” and as “critical” to the work they do. But companies also express uncertainty over what’s expected, over what’s required, and over who holds responsibility if something goes wrong, and they report that greater certainty on these fronts would better enable them to follow regulations and implement requirements with confidence.

Transparency in policy creation and implementation is critical for companies to efficiently operate in any market. A transparent approach incorporates the views and best practices of top domestic and international experts and leads to policies that are balanced, implementable, and effectively achieve food safety. This approach ultimately leads to creation of a greater supply of safe food. Conversely, where transparency is incomplete, companies report that can lead to situations where food safety policies have unintended effects once they are enacted. For example:

Differing Opinions and Capacity Across Jurisdictions

- When attempting to register a new food product for which there was no national standard, but for which the company held an enterprise standard, local authorities questioned the company about compliance with the Food Safety law. China’s [standards system](#) allows companies to provide enterprise standards in the absence of national, provincial, or local standards when registering a product. However, the Food Safety Law encourages enterprise standards for food safety to be created “[much more stringently](#)” than national or local standards. In this instance, local authorities refused to accept the company’s enterprise standard because it was not more stringent than the nonexistent national standard.
 - This difference in interpretation between the national and local levels led to uncertainty over whether the product would be allowed to reach the market in some jurisdictions. Further, while policy clarifications provided by national authorities can guide companies, some companies report that these clarifications are often rejected by local authorities.

- The [AQSIQ rules on cross-border e-commerce](#) permit companies to use e-labels or printed labels on certain imported products. However, the options may lead one province to require an e-label while a neighboring province requires a printed label, creating operational challenges, such as increased costs, as companies work toward nationwide comply. Such differences in interpretation can distract from the real issue at the core of the policy – helping consumers make informed, healthy choices.
- Differences in regulatory capability in certain areas and levels of government can intensify the challenges caused by policy uncertainties. Companies report that regulatory capability in Tier I and II cities – the largest and most modern in China – is often much greater than in Tier III and IV cities – the smaller cities where authorities sometimes lack the skills and equipment to effectively audit and oversee industry. This discourages investment and growth in lower-tier cities, and leads to disparities between the quality of food in different cities. Also, in some areas of China, multiple local-level agencies may be combined into one “big-box” regulator. This complicates the channels through which companies and the public engage with authorities and can blur the lines of regulatory responsibility.

Uncertainty and Unintended Consequences

- In measures that took effect October 1, 2016, the China Food and Drug Administration (CFDA) Limited infant formula manufacturers to registering no more than three brands and nine varieties of formula for production. The goal was to consolidate the infant formula market and provide clearer choices to consumers. However, the policy also creates uncertainty about shifting product lines and whether companies can exceed the varietal limit while phasing varieties into and out of the market. It also raises questions about how companies can create products for children with specific nutritional needs, such as gluten, soy, and dairy allergies or iron deficiencies, in addition to the standard formulas that they produce.
- One company reported that policies related to managing hazardous foods had unintended consequences that exceeded food safety considerations. Because foods containing raw eggs, such as cake batter or custard, are considered hazardous by some authorities, a company offering a cake for offsite consumption may be required to produce the cake in three separate sterile rooms to mix, frost, and cut the cake. This requirement creates unnecessary costs due to duplication of facilities, and adds shelf time by extending the production process.
- Uncertainty in interpreting national standards and a lack of sufficient parameters for evaluating the safety of certain foods hinders the effectiveness of food safety regulations.
 - There is currently no national standard for imported, uncooked ham, so this product is inspected and regulated as cooked food upon import, meaning food safety issues related to the storage temperature, age, and packaging of the product may go undetected.
 - China’s standard for processing of a certain type of food additive is written for whole-product processing. A company seeking to do partial-product processing – such as by importing semi-processed additives and completing the processing in China – reported facing administrative approval hurdles posed by local FDAs seeking to comply with the national standard. The national standard serves an important purpose, but differences of interpretation can prevent companies from moving forward despite being compliant.

Recommendations

A transparent regulatory system includes opportunities for companies to provide feedback on policies as they are made and revised, and helps companies understand new requirements. US companies respect the expertise of the Chinese government and would welcome additional opportunities to hear the opinions and perspectives of regulators, and to ensure they clearly understand relevant requirements and expectations.

- By clearly defining their strategic objectives when forming new policies, regulators can enable the private sector to better align itself with regulatory goals. In some cases, examples or anecdotes may be useful to help companies understand regulators' goals.
- Concise language and clear definitions of key terms and ideas, framed within the science-based principles of [Codex](#) (a food code of harmonized international food standards developed by the United Nations and World Health Organization), would help to eliminate challenges resulting from vague wording.
- When implementing regulations are released later than key policies, interim definitions of key terms and ideas would help companies to prepare and plan accordingly.
- The time frames for submitting comments on policies should be the same for domestic and foreign stakeholders. This would lead to a more comprehensive, accurate portrayal of the expected effect of a policy on the food industry.
- Additional channels for open dialogue between companies and regulators, and additional channels for foreign companies to comment directly to Chinese policymakers, would help companies to ensure that they clearly understand the intent and effect of policies. There are currently few official channels available to foreign companies when seeking clarification of laws and regulations; local industry associations are a useful, but limited, outlet because they do not always actively solicit comments from companies, and may give priority to domestic companies' concerns. Also, some companies report difficulties escalating issues from local to national levels when such attention would be appropriate. Other companies point out that although clarifications provided by the central authorities on policy intent can be helpful, often these clarifications are informal and without legal basis, so local authorities can choose not to accept them.

What US companies are Bringing to the Table

US companies use comprehensive government affairs strategies to engage regulators and receive policy clarification. Relationship building plays a critical role in ensuring access to regulators – as has traditionally been the case in China – but companies must cast a wider net than in years past, as there is typically no longer one single decision maker in any equation. US companies do this by mapping out relevant actors and directly engaging with them, by hiring local staff when possible, and by working together within industry groups to speak with a collective voice. Particularly in the context of the anti-corruption campaign, where the threat of bias – real or perceived – can discourage provincial and local officials from engaging with the private sector, companies are benefiting from a broad, comprehensive, and fully transparent government affairs strategy. This type of strategy lends integrity and mutual understanding to the private-public relationship.

In addition, US companies in the agriculture and food space provide significant, ongoing training on food safety considerations for their employees, their suppliers, and Chinese regulators at the provincial and local levels. By engaging with all stakeholders through education and thought-sharing, companies are working to streamline processes, increase efficiencies, and bring clarity necessary for food safety. The private sector can serve as an important partner to the government in addressing critical issues, especially food safety, and by fostering dialogue and understanding of underlying issues, these trainings help remove food safety concerns and expand the supply of safe food.

Importance of interagency coordination

In 2013, China's food safety regulatory apparatus was overhauled and consolidated into the China Food and Drug Administration (CFDA), formerly the State Food and Drug Administration (SFDA). At that time, CFDA was elevated to a ministerial-level agency directly under the State Council, endowing it with greater authority and underscoring its importance.

Although the majority of food safety responsibility lies with CFDA, many other agencies in China also play key roles:

- China's Ministry of Agriculture (MOA) regulates farms and raw products;
- The National Health and Family Planning Commission (NHFPC) – formerly the Ministry of Health – is responsible for risk assessments and national standards creation; and
- The Administration of Quality Supervision, Inspection, and Quarantine (AQSIQ) – aided by local-level Inspection and Quarantine Bureaus (CIQs) – oversees food imports and exports.

Other agencies, including the State Administration of Industry and Commerce (SAIC), the Ministry of Commerce (MOFCOM), and the Ministry of Public Security (MPS) also hold regulatory responsibilities related to food safety.

Companies report that the 2013 reorganization was a positive step toward streamlining and centralizing food safety oversight, yet coordination challenges between agencies responsible for food safety still exist. When there is insufficient communication between agencies, regulatory gaps and ambiguities make it difficult to comply with regulations and interfere with company operations – particularly when a company's operations span multiple segments of the value chain. US companies operating in China are uniquely positioned to help Chinese regulators address and overcome these challenges, as they do in other markets. Some examples of challenges identified by companies include:

- CFDA regulates some nutritional supplements as health food products and requires them to have pre-market approval via a registration process. However, AQSIQ in some cases regulates nutritional supplements as normal food products, and may allow products into the country that are not registered with CFDA.
- When importing a batch of a foreign-manufactured food product, AQSIQ issues an inspection report for that product upon entry to China. However, local Associations for Industry and Commerce (AICs, the local branches of SAIC) do not always accept this report because AICs report to CFDA.
- In order for a food product to be registered as Food for Special Medical Purposes (FSMP), the product must meet the relevant NHFPC standard and must be registered with CDFA. A local AIC may request a letter from NHFPC certifying that a product meets the standard, so it can gain CFDA approval. However, companies have reported that in some instances NHFPC will refuse to write such a letter because FSMP oversight is not within their jurisdiction. This can hold up the approval process for FSMP foods.

Recommendations

By providing additional clarity on the nature of interagency coordination on major policies, including the revised Food Safety Law, regulators can help companies to ensure they are taking all of the right steps towards achieving China's policy goals.

Bolstering mechanisms for agencies to efficiently share information will provide more robust and efficient oversight and approval processes. Where possible, processing can be further streamlined and discrepancies prevented by allowing approvals and certifications for the same purpose to be overseen by the same agency. More detailed directives as to which departments and officials are responsible for specific aspects of food safety oversight, including their official contact information, would also be of great benefit.

What US companies are Bringing to the Table

In helping address differences of interpretation between agencies, companies report that it can be helpful to have a “policy kit” containing copies of all relevant laws and regulations, certifications, and approvals that prove a company is in line with all current requirements. Like companies, regulators must act in total compliance with laws and regulations, and having this information prepared can help quickly clear up confusion. This saves both companies and regulators time and effort.

More broadly, companies consistently work to build strong relationships with officials at all levels of government. US companies value regulators’ input and opinion, and know that a sense of mutual understanding and shared responsibility makes issues easier to resolve. US companies also make efforts to hire local staff, further fostering a sense of community to clear deadlock. Similarly, companies find that working through Chinese trade associations, while an imperfect solution, can be an effective method of fostering communication and clarity.

In addition, US companies find that aligning their China strategies with high-level policies like the Five-Year Plans on priorities like sustainability, innovation, technology, and modernization can help unify stakeholders and smooth the path forward. By working to clearly identify the “win-win” for regulators, the public, and companies in any given situation, US firms can help ensure that the interests of all parties are met.

Small players and supply chain diversity

China’s food industry is incredibly complex, but it is also young. China has yet to build its food regulatory system to its full capability, and there is little established institutional knowledge on how to keep food safe. Rapid economic development continues to outpace regulators’ capabilities.

Companies report that many of the biggest food safety risks arise in the intermediary layers of the supply chain, when complete oversight is near impossible because of the abundance of small suppliers. While China has taken steps to address these risks, challenges persist. Some of the challenges that companies experience in providing safe food include:

Technical Expertise and Accountability

- With smaller margins than big-box retailers, small retailers are under intense pressure to manage costs. Small players may cut corners by turning off the air conditioning in a store overnight, causing damage to foods that need to remain at stable, low temperatures.
- Small businesses may not have the [necessary laboratory technology or expertise](#) to test for contaminants, creating quality assurance gaps, particularly when food products are made in small batches. As a consequence, some manufacturers and some small organic producers, such as organic tofu makers or small vinegar producers, unwittingly contribute to food safety problems.
- Companies report instances where small farms and food service providers use harmful ingredients, such as secondhand oil or low quality meat, but then [disappear from the market](#) before they can be held accountable. Authorities in China have made some inroads against this problem: for example, a [2015 regulation](#) requires online sellers in Shanghai to provide their real names when registering their businesses. Yet regulators still face tremendous challenges to keep up with the pace of small business registrations, and several dozen officials in one district might be accountable for thousands of restaurants.

Certifications and Audits

- Collecting certifications from suppliers can be a challenge for companies, as many small agricultural producers in China are small farmers without means to provide certifications. Their products may

travel through layers of dealers and markets, collecting certifications along the way, but complete traceability is not possible without certifications from the beginning.

- Also, in instances where certifications are provided, it is always possible that a food product was contaminated by one supplier without another supplier's knowledge. For example, a fisherman may be able to present a certification for seafood, but a transporter may add illegal chemicals to the seafood to preserve it during transport and may not be held accountable due to gaps in the system.
- In order to help address supply chain challenges, AQSIQ in September 2015 introduced [new requirements](#) for third-party audits of overseas facilities that manufacture [certain food products](#) for sale in China. This inspection requirement is also present in the [revised Food Safety Law](#). However, some companies report that this auditing process may be overly burdensome, and that there are other, more effective ways to address supplier safety.

Recommendations

While auditing manufacturing facilities and food service operations is a critical component of food safety oversight, companies report that auditing at critical points in the supply chain can be more important than the frequency of the audits. By prioritizing randomized, unannounced audits at critical junctures in the supply chain, such as when finished products enter China and before manufactured products enter the market, regulators can increase the efficiency of these efforts.

Third-party certifications, such as International Organization for Standardization (ISO) certificates that require periodic updating, can ensure compliance at early stages in the supply chain – and require much less regulator bandwidth – than full-scale audits. Allowing certifications to be recognized in place of audits, when appropriate, would be beneficial to achieving regulatory goals.

What US companies are Bringing to the Table

In addition to training suppliers on food safety protocol, US companies work closely with their suppliers – often Chinese firms – to share best practices and modern technology. For example, they may help suppliers establish foreign object control programs that use x-ray and de-shelling technology to prevent contaminants such as nutshells from ending up in finished food products. A meat products company pre-approves antibiotics that its suppliers use on their farms, helping moderate notoriously heavy antibiotics usage by small farms in China. One company reported working to train the truck driving companies that transport its product on best practices for cold storage management. Another company helps educate farmers on proper disposal of pesticide packaging so runoff doesn't end up in rivers and water supplies. Companies near the end of the supply chain have advanced internal systems for collecting and validating supplier certifications – systems that have been tried and tested in other markets.

Other US companies are developing new technologies for testing foods for contaminants: DNA testing of food products provides much higher accuracy than traditional sampling procedures, and advances in transportable, quick-test labs by US firms mean product testing is faster, cheaper, and more accessible to more stakeholders.

Biotechnology is another way foreign companies help solve challenges related to long supply chains. Genetically modified (GMO) seeds help address traceability concerns because they are tightly regulated and the seed manufacturer holds clear accountability. GMO seeds also require less pesticides and less water to grow compared to non-GMO seeds. This helps address challenges caused by unclean water and pesticide use, prevents contaminants from entering the food supply, and helps alleviate environmental concerns. Finally, some seed companies establish platforms for farmers to sell their crops grown from GMO seeds, leading to greater employment stability and food security by helping crops get to market while they are fresh.

Whole system accountability and enforcement—the human element

Every link in the food value chain provides opportunities to strengthen food safety and food security. But the success of the system as a whole needs the deep commitment of all stakeholders. As [Vice Premier Wang Yang stated](#) in October 2015, proper management of food safety requires strong regulatory and legal systems, along with a culture of moral constraint.

As China's food safety system continues to grow and develop, fostering a culture where compliance is reflexive will be a key ingredient in systemic success. Companies operating in China's food safety space today face challenges that illustrate the importance of built-in accountability, such as:

Employee Loyalty

- Whistleblowing is an important means of empowering employees and consumers to hold companies accountable to high standards. However, companies report instances where disgruntled employees take advantage of China's whistleblowing channels for personal gain – by supplying incorrect information or misleading photographs to the media, for example. These activities erode the effectiveness and validity of whistleblowing as a channel for exposing wrongdoing.
- Instances where products appear on store shelves past their expiration date are typically due to human error, negligence, or a lack of training. This challenge is often compounded by high turnover rates in the food industry.

Role of the Media

- Media portrayals of food safety incidents can be disproportionate to the scope of the food safety concern. For example, the media may report on food safety concerns that are not science-based, or report on them before a legitimate concern has been proven to exist. In some instances, reporters may exaggerate headlines to attract readers. A report of a food safety incident in one sector may set off a chain reaction of investigations in related sectors that do not have a legitimate basis in safety concerns. The media has an important role to play in holding stakeholders accountable, but instances such as these erode public confidence in regulators and food companies without improving food safety.

Professional Consumers

- Unfounded complaints filed by professional consumers or professional buyers, private citizens who file food safety and consumer rights claims with the intention of personal financial gain, distract from legitimate food safety concerns and divert regulators and manufacturers' resources. Under Chinese law, regulators are required to investigate all claims, even if there is no apparent food safety connection. The vast majority of complaints companies receive relate to minor labeling or printing errors that do not affect a product's safety. These complaints are often disproportionately costly, and a claim worth 800 renminbi (RMB) might cost a company 3,000 RMB per hour to defend. In China, the retailer is required to stop selling the product as soon as a claim has been filed. This is a logical step to prevent the spread of unsafe food, but it gives professional buyers leverage to threaten to sue companies if they are not immediately compensated.
 - One company maintains a staff of three legal professionals in their China headquarters dedicated to addressing complaints from professional consumers. The company receives about 250 claims per week filed through CFDA or local AICs, but only about 0.3 percent of all claims the company receives each year make it to court.
 - In one instance, a company reported that professional consumers filed a claim with the local government against the company's product label, which included the company's name in English rather than Chinese, as is required under China's Food Safety Law. However, neither

the professional consumer nor the local government were aware that the name on the label was a registered trademark, meaning the English lettering was in compliance. The claim caused the company and regulators unnecessary work, and had no clear relation to the safety of the product.

- Policymakers have taken several steps to address challenges caused by professional consumers, including provisions in the Food Safety Law and the Consumer Protection Law that exempt consumers who file complaints for personal financial gain from protection. However, substantial operational and regulatory challenges persist.

Recommendations

Policy incentives should be employed to foster a culture of moral accountability and shared responsibility. The Food Safety Law takes progressive strides toward this aim by holding companies in the food industry accountable through financial penalties when they violate the law. Companies appreciate the intent of the Food Safety Law to encourage shared responsibility of all stakeholders in China's food supply chain. This model should be continued, and possibly expanded, as food safety gradually transitions from a legal requirement to a reflexive response.

Education is critical to ensure adherence to food safety standards across the supply chain. Government assistance with media education and encouragement of fair reporting creates a fair and balanced perception. Companies report that often the story of food safety in China is a positive one, and it deserves to be portrayed that way.

What US companies are Bringing to the Table

US companies operating in China bring high, global standards and a comprehensive perspective on what it takes to keep food safe. Not only are they able to improve best practices for food safety, but US firms can be effective partners with regulators and lend their unique expertise in ways that are collaborative. In one example, a company reported working with regulators on a marketing platform to promote food safety, contributing their expertise in marketing and public engagement to help create a successful campaign.

Companies operating in China have tailored strategies for engaging with regulators on critical food safety issues, enabling them to respond effectively to food safety incidents if they arise. Some companies maintain a professional public affairs team at each plant, which directly interacts with the local government. If needed, that team will raise an issue to headquarters for engagement with central-level authorities. Other companies empower local quality assurance teams to directly report to their global headquarters.

US companies employ robust internal quality control teams, and at many manufacturing facilities a company's quality assurance staff is about half as large as the production team. These teams conduct regular internal trainings in line with the highest internal, Chinese, and global standards. Companies also report that they approach food safety from a cross-functional perspective – the legal perspective is an absolute operational requirement, but many also involve their branding, public affairs, science and regulatory, and research and development teams in the process of complying with Chinese regulations. By employing international best practices, companies are able to reduce the amount of food lost in the supply chain due to unsafe practices, thus making sure more food is available to consumers.

Additionally, some US companies provide food safety auditing and certification services in China at the request of private companies and regulators. One company reported that when conducting a survey of a food service provider's performance, their auditor will visit unannounced and evaluate the restaurant or cafe on the basis of whether the waiter greeted the auditor warmly, smiled, and had a positive attitude. The survey is designed to test whether the waitstaff enjoy their work, which the auditor views as an indicator of the likelihood of an employee's compliance with the company's food safety standards. Attitude is one factor in

overall culture, and can be revelatory of whether food safety completes the final step in the chain – to customers' plates.

Conclusion

Food safety in China has made tremendous progress. Regulatory efforts to encourage the production and sale of safe food; developments in testing, manufacturing, and cold chain technology; growth of the food industry as a whole; and enhanced consumer awareness of food safety all played a role in that progress. As China's food industry continues to develop, the ways in which regulatory transparency, interagency coordination, supply chain connectivity, and overall culture are addressed will determine the safety and security of China's food supply.

All companies involved in food and beverage production aim to deliver safe products to customers, and every link in the food value chain provides opportunities to strengthen food safety and food security. From farm to table, from seed to storage, and from the production line to the test lab, companies are constantly working to guarantee that food is safely produced, processed, and delivered to the public. By using proven technologies, global standards, innovative methods, and collaborative practices throughout the supply chain, US companies operating in China are committed to contributing to a more plentiful supply of safer food.